

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JUDITH H. WEISS

Plaintiff(s)

- against -

FRANCES M. CREEM and BETTY M. OLSON,

Defendant(s)

ANSWER WITH
CROSS-CLAIM

Docket #: 07 CV 5712

(RMB)

Defendant(s) Betty M. Olson, by the undersigned answering the VERIFIED complaint of the plaintiff(s), upon information and belief, states as follows:

ANSWERING A FIRST CAUSE OF ACTION

FIRST: Denies having any knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered and designated as: 1, 7, 8, 9, 10, 16.

SECOND: Denies each and every allegation contained in paragraphs numbered and designated as: 18 (except admit contact), 19, 20, 21, 22, 23, 24, 26.

THIRD: Admits each and every allegation contained in paragraphs numbered and designated as: 2, 3, 4, 5, 6, 11, 12, 13, 14, 15, 25.

AS AND FOR AN AFFIRMATIVE DEFENSE – COMPARATIVE NEGLIGENCE

The personal injuries and/or property damage alleged to have been sustained by the plaintiff(s) were caused entirely or in part through the culpable conduct attributable to the plaintiff(s) and the defendant seeks a dismissal or reduction in any recovery had by the plaintiff in the proportion which the culpable conduct attributable to the plaintiff(s) bears to the culpable conduct which caused the damages.

AS AND FOR AN AFFIRMATIVE DEFENSE – COLLATERAL SOURCE

The costs incurred, or paid by plaintiff(s), if any, for medical care, dental care, custodial care or rehabilitation services, loss of earning or other economic loss, in the past or future, were or will, with reasonable certainty be replaced or indemnified, in whole or in part, from a collateral source of the type described in CPLR §4545 and defendant is entitled to have any award reduced in the amount of such payments.

AS AND FOR A CROSS COMPLAINT AGAINST THE CO-DEFENDANT(S)

Frances M. Creem IT IS ALLEGED:

That if the plaintiff(s) Judith H. Weiss, recover herein, it will be by virtue of the recklessness, carelessness and negligence of the co-defendant(s), Frances M. Creem, above named, and not of the defendant(s) Betty M. Olson, and that this answering defendant(s) Betty M. Olson, demands

judgment for contribution and/or indemnification in whole or in part and that the respective degrees of negligence of the co-defendant(s) Frances M. Creem, be ascertained, determined and adjudicated and that the defendant(s) Betty M. Olson, have judgment over and against the above-named co-defendant(s) Frances M. Creem, as their proportionate share commensurate with their respective degrees of negligence as will be decided on at the trial herein.

WHEREFORE, the defendant(s) Betty M. Olson, demands judgment dismissing the plaintiff(s) Judith H. Weiss, Complaint or in the alternative, that this answering defendant(s) Judith H. Weiss, have judgment for contribution and/or indemnification in whole or in part over and against the co-defendant(s) Frances M. Creem, above named, to the degree and proportionate share of the plaintiff(s), Judith H. Weiss recovery as to their respective degrees of negligence as determined herein, with costs and disbursements of this action.

DATED: Westbury, New York
July 06, 2007

Yours, etc.

John W. Kondulis, Esq. (JK4978)
JAMES G. BILELLO & ASSOCIATES (JB7226)
Attorneys for Defendant(s)
Betty M. Olson
875 Merrick Avenue
Westbury, New York 11590
(516) 229-4312
Our File No. 07K0763

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Year: 2007

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JAMES G. BILELLO & ASSOCIATES
Attorneys for the Defendant(s)
Betty M. Olson
875 Merrick Avenue
Westbury, NY 11590
(516) 229-4312

TO

Friedman Friedman Chiaravalloti Giannini
Attorneys for Plaintiff
Judith H. Weiss
2 Rector Street
21st Floor
New York, NY 10006

Due and timely service of a copy of the within ANSWER WITH CROSS-CLAIM is hereby
admitted

Dated July 06, 2007

Attorney(s) for Betty M. Olson

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK) SS.:
COUNTY OF NASSAU)

Meryl Bader, being duly sworn deposes and says that she is over the age of 18 years, that on the _____ day of _____, 20____ she served the annexed ANSWER WITH CROSSCLAIM upon the following named attorneys and parties:

TO:

Friedman Friedman Chiaravalloti Giannini
Attorneys for Plaintiff
Judith H. Weiss
2 Rector Street
21st Floor
New York, NY 10006

by depositing true copies thereof in a post box maintained by the United States Postal Authorities, enclosed in securely closed post-paid wrappers addressed to the above named attorney(s) and parties(s) listed above: that being addressed designated by them as ascertained by deponent from the file maintained in the office of the attorneys for the Defendant(s) Betty M. Olson, herein.

Meryl Bader

Sworn to before me this
_____ day of _____, 20____

NOTARY PUBLIC